



16 JUN 2006

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In re Application of	:	DECISION ON RENEWED
COHEN	:	
Serial No.: 10/564,357	:	
PCT No.: PCT/IL04/00584	:	PETITION UNDER
Int. Filing Date: 01 July 2004	:	
Priority Date: 15 July 2003	:	37 CFR 1.47(b) AND
Atty Docket No.: 26886U	:	
For: ROTARY SPRINKLER WITH REDUCED WEAR :		37 CFR 1.182

This decision is in response to applicant's "Renewed Petition Under 37 CFR 1.47(b)" and "Petition Under 37 CFR 1.182 to Correct International Application Number" filed 27 April 2006 in the United States Patent and Trademark Office (USPTO).

BACKGROUND

On 28 February 2006, applicant was mailed a decision dismissing applicant's petition under 37 CFR 1.47(b) to accept the application without the signature of inventor Boaz Cohen. In addition applicant was informed that the filed transmittal letter identified the international application number as PCT/IL2004/000548 whereas the corresponding information provided indicated that applicant intended to file a U.S. National stage entry for international application PCT/IL2004/000584. Applicant was afforded two months to file a renewed petition under 37 CFR 1.47(b) and a petition under 37 CFR 1.182 as to the PCT number listed on the transmittal letter.

On 27 April 2006, applicant filed the renewed petition under 37 CFR 1.47(b) and the petition under 37 CFR 1.182 discussed herein.

DISCUSSION

I. Petition Under 37 CFR 1.182

The identifying information provided on the transmittal letter filed by applicant on 12 January 2006, i.e., the title, applicant-inventor information, priority date, and international filing date all correspond to that of PCT/IL04/00584. For these reasons, as well as the explanation provided in the present petition, it has been concluded that the national stage papers filed 12

January 2006 sufficiently identify international application PCT/IL04/00584. Pursuant to petitioner's request, the national stage papers assigned U.S. application number 10/564,357 will be treated as a U.S. national stage submission for PCT/IL04/00584.

It is noted that applicant provided payment of \$200.00 for the petition fee. Pursuant to 37 CFR 1.17(f) the petition fee for a petition submitted under 37 CFR 1.182 is \$400.00. The additional \$200.00 will be charged to deposit account number 14-0112 as authorized.

II. Renewed Petition Under 37 CFR 1.47(b)

As detailed in the decision mailed 28 February 2006, a petition under 37 CFR 1.47(b) must be accompanied by: (1) the requisite petition fee under 37 CFR 1.17(g); (2) factual proof that the inventor refuses to execute the application or cannot be reached after diligent effort; (3) a statement of the last known address of the non-signing inventor; (4) an oath or declaration executed by the 37 CFR 1.47(b) applicant on behalf of and as an agent for the non-signing inventor; (5) proof of proprietary interest in the application; and, (6) a showing that such action is necessary to preserve the rights of the parties or to prevent irreparable damages. Applicant previously satisfied items (1); (3); and (6).

Applicant has presently provided a statement from attorney Pugatsch confirming that a complete set of application papers was sent to Mr. Cohen and detailing the telephone conversations counsel had with Mr. Cohen in which the inventor confirmed receipt of the application papers and promised to execute the new declaration. The statement shows that Mr. Cohen has yet to return a signed declaration. Thus, applicant has satisfied item 2.

As to item (5), a review of the file finds an assignment document executed by the inventor. In addition, applicant has currently provided a statement executed by Mr. Erez Zimhoni on behalf of the corporate assignee. Therefore, item (5) has been satisfied.

Regarding item (4), applicant has not provided a compliant oath or declaration. The declaration signed by inventor Cohen, as well as the copy submitted with the original papers of 12 January 2006 did not contain the requisite language under section 1001 of title 18 of the United States Code. Similarly, the statement signed by Mr. Zimhoni is not a declaration as to the invention, but merely a statement of proprietary interest.

CONCLUSION

Applicant's petition under 37 CFR 1.182 is **GRANTED**.

For the reasons stated above, applicant's petition under 37 CFR 1.47(b) is **DISMISSED**, without prejudice.

Any reconsideration on the merits of this petition must be filed within **TWO (2)**

MONTHS from the mail date of this decision. Any reconsideration request should include a cover letter entitled "Renewed Petition Under 37 CFR 1.47(b)." No additional petition fee is required. Extensions of time may be obtained under 37 CFR 1.136(a).

Any further correspondence with respect to this matter should be directed to Mail Stop PCT, Commissioner for Patents, Office of PCT Legal Administration, P.O. Box 1450, Alexandria, Virginia 22313-1450, with the contents of the letter marked to the attention of the Office of PCT Legal Administration.



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